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RETURN TO OS REGISTRY

25 April 1974

MEMORANDUM FOR: Deputy Director of Security (PSI)
THROUGH : Chief, Security Support Division
SUBJECT : Polygraph Policy Review

STATINTL

1. The Director of Security has requested a review of policy now governing all actions in the Office of Security. He encouraged proposals from all personnel. This memorandum contains comments on the policy directives applicable to the use of the polygraph in CIA. Since Mr. [REDACTED] has been designated as coordinator of this policy review, you may wish to forward this memorandum to him with your comments if the proposals meet with your approval.

2. The basic policy guidance for use of polygraph in CIA is contained in a memorandum from the DCI to the Director of Security dated 21 February 1970. A copy is attached at Tab A.

3. A review of this policy paper prompts the following comments and proposals for change.

A. In connection with prohibitions of use of the polygraph in CIA, the 21 February memorandum stipulates:

"The polygraph will not be used in the Central Intelligence Agency on official or administrative matters involving possible malfeasance, or for the sole purpose of determining violations of the criminal laws of any country."

It is believed that the phrase, "or for the sole purpose of determining violations of the criminal laws of any country" implies

that the polygraph is used in some manner associated with the resolution of questionable acts addressed by criminal law. This is not true. We are not involved in any way with police or law enforcement activities. In today's environment there should be no statement of policy which implies or even seems to authorize law enforcement activities. Accordingly it is recommended that this phase be eliminated.

B. In connection with the invasion of privacy issue, policy states in part:

"The Director of Security shall establish adequate safeguards designed to prevent unwarranted invasion of privacy."

Policy further provides as a means to this end that separate files shall be maintained for information obtained during polygraph examinations. We have trouble with the implementation of this requirement. Information provided by persons tested frequently is included verbatim in the overall appraisal report which is ultimately filed with all other security related data in the individual's Security File. To some individuals this does not represent adequate compliance with the policy requirement to maintain separate files. Historically, separate files of polygraph material has been interpreted to mean filing separately from all other material including background investigations, security assessments and security related information. We are trying to practice this complete separation but as mentioned above, there is room for question in view of the fact that information from the polygraph interview is included in the overall appraisal report which is stored in the general Security File.

In recognition of the fact that Security Files are maintained separately from other Agency information about the individual and the fact that Security Files are not generally available, the degree of concern is open to question. Since we can propose no satisfactory alternative to comprehensive appraisal reports which perforce must contain polygraph information we would suggest that the current interpretation of the policy requiring separate filing be extended to include and permit the inclusion of significant security related information derived from the polygraph interview in the individual's Security File.

- C. A broader issue concerned with the invasion of privacy relates to the overall propriety of some of the polygraph questions now being routinely asked. Today's environment as reflected in the proposed Ervin Bill, recent Civil Service Commission hearings as well as court cases raises question as to the proper nature of inquiry into the individual's attitudes and conduct with respect to sexual matters. There is current legislation pending that will make it an criminal offense to ask questions of this nature, not only during a polygraph test but during any kind of pre-employment activities including medical histories and investigations. To recognize the pressures of the times and consider dropping this question area would not seriously detract from the coverage of the polygraph interview. Elimination of this area of questioning would eliminate one of the most frequently raised objections to polygraph's invasion of privacy. It is recognized that there may be strong objection to the dropping of this question at this time, but a balanced consideration of the ultimate "profit and loss" seems to favor increased attention to this matter. At a minimum, it is proposed that the wording of the question be changed, and that some

qualifier be included in a recasting of guiding policy on the polygraph to reflect a more liberal approach to the whole matter of sex as an issue of suitability.

D. Policy requires that:

"All questions must have a specific relevance to the person being polygraphed and to the purpose of that particular test."

This wording seems vague and undirected. It is proposed that the policy be restated to read:

"All questions must have specific relevance to the loyalty, background and character of the individual."

- E. Policy requires that polygraph information may be released only after a determination is made "that such a release is necessary in the interest of national security". The test of precedence shows the majority of releases relate to information on an individual's sexual conduct (homosexuality). Today's interpretation of just what constitutes "the interest of national security" is vague. We would be hard pressed to justify release of information on the use of marijuana or homosexuality under some interpretations of "national security". It is recommended that this phrase be recast to read, "that such a release is considered to be in the best interest of the government".

F. Policy requires:

"If a polygraph examination involves a question pertaining to the violation of a criminal law, the individual shall be informed of his privilege against self-incrimination and his right to

consult with legal counsel or other professional assistance prior to the examination. Notification of such rights will be formally recorded."

Again policy implies that polygraph is used to inquire and/or investigate violations of criminal law. We do not so employ the polygraph. Conversely, for 27 years, polygraph questions have included, "Have you ever committed a major crime?" There is no record that any information provided in response to this question has ever been released to civil law enforcement agencies. The rationale which justifies asking the question rests on the premise that an individual who has committed a major crime may be subject to security blackmail. But we are faced with an apparent dilemma. It is recommended that policy be restated so as to eliminate this material and that the question on commission of a major crime be dropped from the list of polygraph questions. It should be noted that the Polygraph Agreement signed by all applicants for employment says in part:

"Having been informed of my rights under the Constitution, I agree of my own free will and without any compulsion, duress, or promise of reward or immunity, to an interview with officials of the Central Intelligence Agency, during which I will participate in polygraph tests."

This agreement seems to be sufficient release authority to permit the Agency to take whatever action seems appropriate based upon the information provided by the individual. The fact that information of a serious crime has not yet been released is moot. Release authority is obtained should it ever become desirable

in the public welfare to release to civil authorities information which may be provided by the individual. It is not considered necessary to include in policy a requirement for informing an individual of his "rights". It would be better to simply eliminate the current terminology from any policy statement.

4. If the above recommendations are accepted, the policy statement on polygraph would take the form attached at Tab B. It is considered desirable to have such a revision approved by the Director in the form of a memorandum to the Director of Security. The draft revision of policy statements is prepared in such a form for your consideration.


Chief, Interrogation Branch

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